

UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF PENNSYLVANIA

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Hilda L. Solis, Secretary of Labor, United States Department of Labor	:	CIVIL ACTION
	:	
Plaintiff,	:	No. 09-cv-00988
	:	
v.	:	
	:	
John J. Koresko V., et al.	:	
	:	
Defendants.	:	

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**ORDER**

And Now, this \_\_\_\_\_ day of October, 2012, upon consideration of the Joint Motion of the Parties to Modify the Scheduling Order Entered February 13, 2012, it is hereby Ordered and Decreed that the Motion is Granted, and, pursuant thereto, IT IS HEREBY ORDERED that:

1. Koresko Defendants are to continue their investigation of documents within the possession, custody and control of Koresko Defendants and, if appropriate, will supplement Koresko Defendants' responses to DOL's Interrogatories not later than January 31, 2013 by providing additional information or directing the DOL to documents wherein some or all of the information requested may be found, or responding under oath that no responsive documents exist;

2. Koresko Defendants are to produce to the DOL documents responsive to the DOL's First Request for Production of Documents that are within Koresko Defendants' possession, custody and control on a rolling basis timed as follows:

(i) Not later than November 13, 2012: all documents responsive to Requests Numbers 5, 9, 10, 11, 14, 17, 21, 23, 27, 28, and 29;

- (ii) Not later than December 20, 2013: all documents responsive to Requests Numbers 1, 2, 3, 4, , 6, 7, 8, 12, 13, 18, 20, 22, 24, 25, 26, 53 and 54; and
- (iii) Not later than January 31, 2013: all documents responsive to Requests Numbers 15, 16, 19, and 30, and all documents responsive to Requests 31 to 52, inclusive, should the Court grant the Koresko Defendants' Motion for Reconsideration.

3. All documents encompassed by DOL Document Request 55 that are within the possession, custody and control of Koresko Defendants will be produced not later than January 31, 2013; except for those documents previously produced in accordance with the foregoing rolling production;

4. Koresko Defendants are to respond to the DOL's First Request for Admissions on or before January 15, 2013. The Secretary does not waive any arguments she may have that these answers are untimely or that these Requests have already been deemed admitted by the Koresko Defendants' failure to answer as of the date of this Motion.

5. Koresko Defendants are to respond to the DOL's proposed Stipulations on or before January 15, 2013.

6. Depositions of fact witnesses, are to be scheduled by the Parties, pursuant to their mutual agreement upon an orderly deposition schedule; all depositions are to be scheduled and completed no later than March 31, 2013.

7. All Defendants shall proceed forthwith with discovery and continue in such manner as will assure that all requests for, and responses to, discovery will be served, noticed, and completed by March 31, 2013.

BY THE COURT

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MARY A. MC LAUGHLIN, J.

UNITED STATES DISTRICT COURT FOR THE  
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**Joint Motion of the Parties to Modify  
the Scheduling Order Entered February 13, 2012**

1. Pursuant to this Court's Order, entered February 13, 2012, all discovery is to be completed by November 13, 2012.
2. The following discovery served upon the Koresko Defendants by the Department of Labor (DOL) remains unanswered by the Koresko Defendants, but is currently being addressed by recently engaged counsel for Koresko Defendants:
  - (a) DOL First Set of Interrogatories, consisting of eight (8) separate interrogatories;
  - (b) DOL's First Set of Requests for Admissions, consisting of 122 separate Requests for Admissions, each of which contains subparts totaling 1,075 Requests for Admissions regarding documents, and an additional 776 Requests for Admissions regarding facts, for a total of 1,851 Requests for Admissions. These Requests are all based on documents supplied by the Koresko Defendants to DOL on March 9, 2006, and are related to coverage issues on which DOL has sought stipulations.

(c) DOL's First Request for Production of Documents, consisting of 54 separate Requests for Documents, many of which have subparts, and which require the production of documents, which the Koresko Defendants expect to be in the thousands;

(d) DOL's proposed Stipulation from Defendants regarding the authenticity of hundreds of separate documents supplied to the DOL on March 9, 2006 by the Koresko Defendants and identified in DOL's Requests for Admissions, as well as numerous facts relating to the merits of the remaining factual claims; and

(e) DOL's Notices relative to eight (8) depositions proposed for dates in October and November, 2012, as more fully set forth on Appendix "A" hereto.

3. Counsel for Koresko Defendants, notwithstanding their recent entry into the case, find that they must not only familiarize themselves with the facts and legal issues in this and related cases, including the review of documents, but also respond to Orders of Court, unanswered discovery, and prepare for a substantial number of depositions in order to bring Koresko Defendants into compliance with the F.R.Civ.P. as well as the orders and directives this Court.

4. Counsel for the Koresko Defendants believe that the Parties and the Court would be better served by a modification of the scheduling order currently in effect to provide a timetable for completion of discovery that will balance the need of the DOL to obtain adequate and complete responses to its outstanding discovery with the needs of newly engaged defense counsel to educate themselves regarding the facts and legal issues of the case and to allow for a proper and thorough investigation of the information and documents necessary to address the requested discovery in an orderly and expeditious manner.

5. Subject to the approval of this Court, the DOL and counsel for Koresko Defendants have agreed to a proposed modification of the Court's current Scheduling Order as follows:

(a) Koresko Defendants are to continue their investigation of documents within the possession, custody and control of Koresko Defendants and will supplement Koresko Defendants' responses to DOL's Interrogatories not later than January 31, 2013 in one of the following manners: by providing additional information or directing the DOL to documents wherein some or all of the information requested may be found, or responding under oath that no responsive documents exist;

(b) Koresko Defendants are to produce to the DOL documents responsive to the DOL's First Request for Production of Documents that are within Koresko Defendants' possession, custody and control on a rolling basis timed as follows:

- (i) Not later than November 13, 2012: all documents responsive to Requests Numbers 5, 9, 10, 11, 14, 17, 21, 23, 27, 28, and 29;
- (ii) Not later than December 20, 2013: all documents responsive to Requests Numbers 1, 2, 3, 4, 6, 7, 8, 12, 13, 18, 20, 22, 24, 25, 26, 53 and 54; and
- (iii) Not later than January 31, 2013: all documents responsive to Requests Numbers 15, 16, 19, and 30, and all documents responsive to Requests 31 to 52, inclusive, should the Court grant the Koresko Defendants' Motion for Reconsideration

(c) All documents encompassed by DOL Document Request 55 that are within the possession, custody and control of Koresko Defendants will be produced not later than January 31, 2013; except for those documents previously produced in accordance with the foregoing rolling production;

(d) Koresko Defendants are to respond to the DOL's First Request for Admissions on or before January 15, 2013. DOL does not waive any arguments it may have that these answers are untimely or that these Requests have already been deemed admitted by the Koresko Defendants' failure to answer as of the date of this Motion.

(e) Koresko Defendants are to respond to the DOL's proposed Stipulations on or before January 15, 2013.

6. Depositions of fact witnesses, are to be scheduled by the Parties, pursuant to their mutual agreement upon an orderly deposition schedule; all depositions to be scheduled and completed not later than March 31, 2013.

WHEREFORE: the DOL and Koresko Defendants respectfully request this Court to enter an Order modifying the current Scheduling Order and approving the stipulated schedule for completion of discovery for all Defendants herein. Counsel for Defendant Farmers & Merchants Trust of Chambersburg ("F&M") has been contacted and the parties are authorized to represent that F&M does not object to this Motion.

M. Patricia Smith  
Solicitor  
U.S. Department of Labor

Catherine Oliver Murphy  
Regional Solicitor  
U.S. Department of Labor

/s/ Linda M. Henry  
Linda M. Henry  
Attorney  
U.S. Department of Labor

Montgomery, McCracken, Walker & Rhoads, LLP

/s/ Jeanne L. Bakker  
Jeanne L. Bakker, Esquire  
Counsel for Koresko Defendants

Solis v. Koresko, et al., 09-cv-988  
Depositions Scheduled

10/22/12	John Koresko
10/24/12	Larry Townsend
10/25/12	Michelle Weller
10/26/12	Lawrence Koresko
11/1/12	PennMont Benefit Services, Inc.
11/2/12	Penn Public Trust
11/7/12	Koresko & Associates
11/8/12	Koresko Law Firm

**CERTIFICATE OF SERVICE**

I hereby certify that on this date the foregoing motion was filed electronically, which constitutes service upon the following:

Linda Henry  
Attorney  
Office of the Solicitor  
U.S. Department of Labor  
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Philadelphia, PA 19106-3306

/s/ *Jeanne L. Bakker*  
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Dated: October 25, 2012